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COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN
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Item 5 of the provisional agenda*

WAYS AND MEANS OF EXPEDITING THE WORK OF THE COMMITTEE

Report by the Secretariat

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INTRODUCTION

1. At its twelfth session, in 1993, the Committee on the Elimination of Discrimination against Women (CEDAW) decided that the secretariat should prepare every year, as a pre-session document, a report on ways and means of improving the work of the Committee, containing all the information that the secretariat believed was necessary for the discussion on the item arising from the secretariat's experience from the previous year, the comments made by members to the secretariat or developments elsewhere in the human rights regime. It should also contain a list of States parties whose reports could be considered at the subsequent session with a view to geographical representation and order of receipt.

2. The present report contains information based on the discussions that took place during the recent sessions of the Committee, results of the World Conference on Human Rights and developments within the United Nations with regard to secretariat structures, documentation and conference-servicing policies and resource levels.

I. RESERVATIONS TO THE CONVENTION

3. The Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights states that "... Ways and means of addressing the particularly large number of reservations to the Convention should be encouraged. Inter alia, the Committee on the Elimination of Discrimination against Women should continue its review of reservations to the Convention ...". 1/

4. As is the case with other human rights treaties, the Convention on the Elimination of All Forms of Discrimination against Women allows reservations so that a maximum number of States can become parties. However, article 28 of the Convention states inter alia that:

> A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

5. At its twelfth session, the Committee recalled that it had raised the issue of reservations to the Convention at its previous sessions and that, at its eleventh session, it had adopted General Recommendation 20, inter alia, to the effect that in connection with preparations for the World Conference on Human Rights in 1993, States parties should raise the question of the validity and legal effect of reservations to the Convention in the context of reservations to other human rights treaties. It also decided that it "... should support steps taken in common with other human rights treaty bodies to seek an advisory opinion from the International Court of Justice that would clarify the issue of reservations to the human rights treaties and thereby assist States parties in their ratification and implementation of those international instruments ...". 2/

6. No progress has been made in taking steps to seek an advisory opinion. However, the Vienna Declaration and Programme of Action states that "The World Conference on Human Rights encourages States to consider limiting the extent of any reservations they lodge to international human rights instruments, formulate any reservations as precisely and narrowly as possible, ensure that none is incompatible with the object and purpose of the relevant treaty and regularly review any reservations with a view to withdrawing them." 3/

7. The Committee itself regularly raises the issue of reservations with States parties when they present their reports. The Committee raises questions, however, only when the report is presented. States parties can object within the period of a year to reservations entered by other States parties and this has been done in a number of cases. Reservations entered or withdrawn, as well as objections registered, during a given year are reported to the General Assembly in the annual report of the Secretary-General on the status of the Convention. In order to encourage States parties to withdraw reservations, particularly those that do not conform with the criteria set out in the Vienna Programme of Action, the Committee could consider developing orientations for the reporting by States parties on their reservations, particularly toward explaining how they are interpreted. These orientations could be included in the guidelines on reporting adopted by the Committee and circulated to States parties.

II. ADEQUATE TIME TO CONSIDER REPORTS OF STATES PARTIES

8. The Committee's meeting time to receive and examine reports of States parties is limited by article 20 of the Convention, which specifies that the Committee shall meet for two weeks. There is a clear recognition by States Members of the United Nations that the time is inadequate, since by its resolution 1992/17 of 30 July 1992 the Economic and Social Council supported the Committee's request that it be allowed to meet for a three-week period until it eliminated its backlog in considering reports. This support was restated in Economic and Social Council resolution 1993/14 of 27 July 1993. Furthermore, the General Assembly, by resolution 47/94 of 16 December 1992, authorized the Committee to meet for three weeks in 1993 and 1994.

9. Assuming that the Committee completes consideration of the reports of 13 States parties at its thirteenth session, a total of 24 reports of States parties (including combined reports) are pending consideration by the Committee as of 1 November 1993 and have not yet been scheduled. The number will grow over the coming months. For the last several years, the inter-sessional backlog averaged some 39 reports. The States parties whose reports are available to be considered in 1995 are shown in annex I.

10. Achievement of the accepted objective of States parties meeting their treaty obligations on time will mean that it will be impossible, under existing circumstances, for the Committee to consider the reports. With 128 States parties, the Committee would be expected to receive and examine 32 reports per year.

11. The lack of timeliness in considering the reports of States parties is serving as a disincentive for States to report, which is weakening the effectiveness of the Convention. An average of three years passes between receipt of a report by the secretariat and its consideration by the Committee. In the intervening period Governments have often changed, making a new Government responsible for the presentation of a report prepared by its predecessor. Often, the new Government submits supplemental information which is, in effect, a new report. This increases the volume of documentation (and its cost) and leads to complications in framing questions. It should be noted that this supplemental information is a major factor in the increased documentation requirements of the Committee and that the General Assembly is applying greater scrutiny to the conference-servicing requirements, including documentation, of all human rights treaty bodies.

12. One option for dealing with the growing backlog within the mandated meeting time of the Committee is to develop procedures whereby more reports could be considered within the two- or three-week period. The Committee currently follows the general procedures of other human rights treaty bodies in examining reports, based on the "constructive dialogue" with the States parties. For initial reports, it receives a presentation of the report by representatives of the State party and thereafter poses questions. The State party returns at a subsequent meeting to present its answers to the questions and to respond to further questions. Because more than one State party replies to questions at a given meeting, the total time allotted to the consideration of initial reports is one and one half meetings. Because the initial report is considered to be the "baseline" for further monitoring, it has been felt that its consideration deserves additional time. For second and subsequent periodic reports, the Committee makes use of a pre-session working group to formulate questions which are then provided in writing to the State party. The State party then appears and responds to the questions posed by the pre-session working group as well as to further questions. The time allotted to the consideration of a second or subsequent periodic report is one meeting.

13. Based on this procedure, the Committee has scheduled between 13 and 14 reports for a three-week session. For the next (1994) session, six will be initial reports and seven will be second or subsequent. This means that of a total of 30 meetings available, 16 are dedicated entirely to the "constructive dialogue" feature. This is the largest number of reports reviewed in an equivalent time period of all of the human rights treaty bodies.

14. Any effort to reduce the time allowed to a State party to present its report and respond to questions would appear to place the "constructive dialogue" in jeopardy, by making it too perfunctory to explore national implementation experience in any detail.

15. The Committee undertakes, in conformity with article 21 of the Convention, to prepare recommendations to States parties. It has completed a total of 20 recommendations over 12 sessions. The Committee is also expected to make input into relevant world conferences, including the World Conference on Human Rights, the International Conference on Population and Development (1994) and the Fourth World Conference on Women: Action for Equality, Development and Peace (1995). It is further obligated to respond to requests for its views from other human

rights bodies (as when the Commission on Human Rights requested its views on the desirability of requesting an advisory opinion from the International Court of Justice on the status of reservations to human rights treaties). The work of drafting the recommendations and other input mostly takes place outside the regular working hours, but the Committee tries to set aside time to permit discussion. It has set aside eight meetings for this purpose at its forthcoming thirteenth session.

16. Even if the Committee were to completely abandon its responsibilities under article 21 and dedicate the six meetings now set aside for its article 21 function to reviewing additional reports, this would not meaningfully reduce the backlog.

17. The second option is to revise the Convention to permit the Committee to request the meeting time it needs to exercise its responsibilities. It should be recalled that, in its Suggestion 4 on the World Conference on Human Rights, the Committee recommended:

> "... that, with a view to placing the Convention on the Elimination of All Forms of Discrimination against Women on the same footing as other human rights conventions: ... Steps should be taken to amend the Convention to provide adequate time for meetings by eliminating the limitation set out in article 20 of the Convention ...".

The World Conference on Human Rights, however, made no recommendation to that effect.

18. The Committee might wish to make a further recommendation on this issue. It should be noted that two other human rights treaties, the International Convention on the Elimination of All Forms of Racial Discrimination 4/ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 5/ have recently been amended without opening up substantive issues in order to overcome a procedural limitation set out in the treaty itself. By this process, the funding of the treaty monitoring bodies were transferred to the regular budget of the United Nations, rather than from States parties.

III. OVERDUE REPORTS

19. Under the Convention, States are required to make an initial report one year after the Convention has entered into force for it and thereafter every four years, unless the Committee decides otherwise (article 18). This means that the second periodic report is due four years after the initial report was due. The intent was to emphasize the responsibility of States to prepare their initial and subsequent reports promptly and regularly.

20. Most States parties have not been able to adhere to the schedule. The initial report has had the greatest delay. As of 1 November 1993, 38 States parties have not submitted their initial reports and over 20 others are overdue in submitting second and subsequent periodic reports.

21. The issue of overdue reports has been addressed by the Committee in previous sessions and, as a practice, States which have more than one report overdue are permitted to combine them into a single report. This enables States to remove their backlog in reporting and to begin a regular schedule of reporting.

22. The Committee may wish to consider what further steps might be taken to encourage States parties with overdue reports to bring them up to date. The preparations for the Fourth World Conference on Women could include, for example, bringing reports up to date. An overall effort within the human rights regime to address reporting generally could also be a factor.

23. The Committee might wish to examine, however, the effect of increased reporting by States parties with overdue reports on the work of the Committee, particularly since the Committee is not able to consider the reports it now receives in a timely fashion.

IV. FEASIBILITY OF DRAFTING AN OPTIONAL PROTOCOL

24. The World Conference on Human Rights recommended that:

> "... New procedures should also be adopted to strengthen implementation of the commitment to women's equality and the human rights of women. The Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women should quickly examine the possibility of introducing the right to petition through the preparation of an optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women ...". 6/

25. The Committee had already been seized of the question, in the light of the work of the expert group meeting on violence against women, which began the process of drafting the draft Declaration on Violence against Women. While not having dealt specifically with an optional protocol that would introduce the right of petition, at its twelfth session, the Committee adopted Suggestion 4 on the World Conference on Human Rights, which recommended that, "with a view to placing the Convention on the Elimination of All Forms of Discrimination against Women on the same footing as other human rights conventions: ... A study should be prepared on the feasibility of drafting optional protocols".

26. The recommendation to draft an optional protocol or not would be made by the competent intergovernmental body, the Commission on the Status of Women. In making its recommendation, it would seem likely that the Commission would wish the views of the Committee on the practical feasibility of such a protocol.

27. If modeled on the optional protocol to the International Covenant on Civil and Political Rights, 7/ a citizen of a State party to the protocol would be able to send a communication to the Committee alleging a violation by that State of the rights set out in the treaty. The Committee would examine the case and render a judgement.

28. Two factors relevant to the Committee's work seem worthy of consideration in examining the feasibility of the protocol. First, because the Convention focuses on the measures taken by a State to eliminate discrimination the process of the adjudication of a complaint might be more complex with the Convention since they would tend to include situations where the State failed to take measures rather than when the State acted. Secondly, the addition of a communications procedure to a Committee whose meeting time is already severely limited would probably make it impossible for the Committee to carry out its mandated tasks. Clearly, the limitation of meeting time would have to be removed before an optional protocol could be implemented.

29. The Committee may wish to express its views on the feasibility and desirability of an optional protocol to establish a petition procedure under the Convention, so that these views can be communicated to the Commission on the Status of Women.

V. SECRETARIAT SERVICING OF THE COMMITTEE AND COOPERATION WITH OTHER TREATY BODIES AND THEIR SECRETARIATS

30. In conformity with article 19 of the Convention, the Secretary-General is responsible for providing the Committee with secretariat servicing. From the beginning of its existence in 1981, the servicing responsibility has been assigned to the Division for the Advancement of Women, which also services the Commission on the Status of Women. The servicing of the other human rights treaty-monitoring bodies has been assigned to the Centre for Human Rights, which also services the Commission on Human Rights.

31. The World Conference on Human Rights underscored the responsibility of the Centre for Human Rights in the coordination of United Nations activities in the field of human rights. It also reaffirmed the role of the Division for the Advancement of Women in promoting the equal rights and status of women. It recommended that "... cooperation and coordination should be strengthened between the Centre for Human Rights and the Division for the Advancement of Women". 8/

32. In its Suggestion 4, the Committee had recommended that "The servicing of the Committee on the Elimination of Discrimination against Women should be provided by both the Centre for Human Rights and the Division for the Advancement of Women of the United Nations Secretariat, and that the meeting places of the Committee should be adjusted accordingly".

33. As of 1 August 1993, the Division for the Advancement of Women has been transferred from Vienna to United Nations Headquarters in New York, as part of the Department for Policy Coordination and Sustainable Development. It is therefore located in a place where the Centre for Human Rights maintains an office and where many of the other human rights treaty bodies hold meetings.

34. Servicing resources for the Committee are allocated, as before, in the programme budget section assigned to the Division for the Advancement of Women. In the past, the Centre for Human Rights has participated in servicing by

providing staff during the Committee's sessions to provide information on developments elsewhere in the human rights regime.

VI. VENUE OF SESSIONS

35. Article 20 of the Convention specifies that the Committee shall meet at United Nations Headquarters or at any other location that the Committee might decide. Since 1981, the Committee has met alternately in New York and in Vienna. Meeting in Vienna was authorized by the General Assembly because the secretariat of the Committee was located at Vienna.

36. The transfer of the Division for the Advancement of Women to New York now means that the secretariat of the Committee is located at United Nations Headquarters. A new mandate would be required if the Committee were to meet at a place other than United Nations Headquarters.

VII. REVIEW OF THE RULES OF PROCEDURE

37. At its twelfth session, the Committee decided to review its rules of procedure, taking into account the fact that the Committee's rules of procedure had been drafted in 1981, that over the years its workload had increased and certain working methods had been adopted to expedite its work.

38. A number of anomalies now exist in the rules of procedure. For example, the rules specify that the agenda for the subsequent session would be prepared by the secretariat in consultation with the Chair of the Committee. In practice, the Committee now adopts its provisional agenda for the next session at the conclusion of each session. However, no clear procedure exists to modify that provisional agenda, should the need arise. Similarly, the institution of standing working groups, around which much of the Committee's work is organized, is not reflected in the rules of procedure. Moreover, the Committee now uses a pre-session working group to prepare questions for States parties presenting second and subsequent reports, a procedure which is not yet reflected in the rules of procedure. Finally, the Committee, at its twelfth session, decided that immediately following each session a summary of that session should be prepared by the Chairperson of the Committee. That summary should be sent to the persons chairing other treaty bodies. No rule yet exists to cover that procedure.

39. Also at its twelfth session, the Committee decided to request extraordinary reports from several States parties, arising from a specific situation in which women's rights protected under the Convention may have been violated. In doing so, "... the Committee put on record its commitment to look into similar grave violations of rights being experienced by women in any part of the world". 9/ The Committee's rules of procedure currently make no provision for these extraordinary requests, including the criteria which might be applied and means by which the requests could be met.

40. The Committee, taking all of these factors into account, may wish to review the rules of procedure, rule by rule, to determine whether they need to be changed in the light of experience.

VIII. FORMULATION OF COMMITTEE COMMENTS ON THE REPORTS OF STATES PARTIES

41. The Committee at present does not have a procedure for formulating comments on the reports of States parties, apart from a summary made by the Chairperson at the end of each consideration. Other human rights treaty bodies have procedures for formulating a Committee position on the situation of the State party in relation with the treaty concerned. For example, the Human Rights Committee designates a rapporteur for each State party that reports, who prepares a draft comment which is then discussed by the Committee, agreed and issued.

42. The Committee may wish to consider how, in the context of the existing time constraints, it could formulate such comments.

IX. REPORTS TO BE CONSIDERED AT THE FOURTEENTH SESSION

43. The list of States parties whose reports have been received but not yet considered by the Committee, in order of receipt, is found as annex I.

X. PROVISIONAL AGENDA FOR THE FOURTEENTH SESSION

44. A draft provisional agenda for the fourteenth session of the Committee is found as annex II.

XI. ISSUES FOR THE NEXT MEETING OF THE CHAIRPERSONS (1994)

45. With reference to paragraph 87 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, the Committee may wish to give its views concerning steps aimed at coordinating the multiple reporting requirements and guidelines for preparing States reports. The Committee may also wish to study the suggestion that the submission of one overall report on treaty obligations undertaken by each State party would make these procedures more effective and increase their impact.

Notes

1/ A/CONF.157/23, sect. II, para. 39.

2/ A/48/38, sect. I, para. 5.

3/ A/CONF.157/23, sect. II, para. 5.

4/ Resolution 2106 A (XX), annex.

5/ Resolution 39/46, annex.

6/ A/CONF.157/23, sect. II, para. 40.

7/ Resolution 2200 A (XXI), annex.

8/ A/CONF.157/23, sect. II, para. 37.

9/ A/48/38, sect. I, para. 2.

Annex I

STATES PARTIES' REPORTS AVAILABLE FOR CONSIDERATION AT THE FOURTEENTH SESSION, BY ORDER OF RECEIPT

A. Initial reports

Bolivia	8 July 1991
Chile	3 September 1991
Saint Vincent and the Grenadines	27 September 1991
Mauritius	23 February 1992
Paraguay	6 May 1992
Uganda	1 June 1992
Ethiopia	22 April 1993
Iceland	5 May 1993
Tunisia	17 September 1993

B. Second periodic reports

Peru	13 February 1990
Argentina	13 February 1992
Cuba	13 March 1992
Belgium	9 February 1993
Finland	9 February 1993
Dominican Republic	26 April 1993

C. Third periodic reports

Russian Federation	24 July 1991
Norway	25 January 1991
Hungary	4 April 1991
Ukraine	31 May 1991
Canada	9 September 1992
Mexico	1 December 1992
Philippines	20 January 1993
Denmark	7 May 1993

Annex II

PROVISIONAL AGENDA FOR THE FOURTEENTH SESSION OF THE COMMITTEE

1. Opening of the session.

2. Solemn declaration by the new members of the Committee.

3. Election of officers.

4. Adoption of the agenda and organization of work.

5. Background report of the Chairperson on the activities undertaken during the year.

6. Consideration of reports submitted by States parties under article 18 of the Convention.

   Documentation

   Report of the Secretary-General on the status of submission of reports by States parties under article 18 of the Convention

   Reports of States parties to be considered at the fourteenth session

7. Implementation of article 21 of the Convention.

   Documentation

   Note by the Secretary-General on reports provided by specialized agencies

   Report of the Secretariat on analysis of article 2 of the Convention

   Report of the Secretariat on the implications for the work of the Committee of the priority themes of the Commission on the Status of Women

8. Ways and means of expediting the work of the Committee

   Documentation

   Report of the Secretariat on the ways and means of expediting the work of the Committee

9. Consideration of the report of the fifth meeting of persons chairing the human rights treaty bodies and action taken by the General Assembly concerning treaty bodies.

   Documentation

   Report of the fifth meeting of persons chairing the human rights treaty bodies

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